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Siskiyou; Jeremiah LaRue and Jesus
Fernandez, in their official capacities
as members of the Siskiyou County
Sheriff's Department and in their individual
capacities; Brandon Criss, Ed Valenzuela,
Michael N. Kobseff, Nancy Ogren, and
Ray A. Haupt, in their official capacities
as members of the Siskiyou County Board
of Supervisors and in their individual
capacities; Edward Kiernan, in his official
capacity as County Counsel for Siskiyou
County and in his individual capacity;
and DOES 1-100.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

Dilevon Lo, Jerry Vang, Nathan Thao, Mao
Thao, Pao Lee, Antonio Lee, Koua Lee, Nhia
Thai Vang, Zeng Lee, Der Lee and Khue Cha

Plaintiffs,

vs.

County of Siskiyou; Jeremiah LaRue and
Jesus Fernandez, in their official capacities as
members of the Siskiyou County Sheriff's
Department and in their individual capacities;
and Brandon Criss, Ed Valenzuela, Michael
N. Kobseff, Nancy Ogren, and Ray A. Haupt,
in their official capacities as members of the
Siskiyou County Board of Supervisors and in
their individual capacities; Edward Kiernan,
in his official capacity as County Counsel for
Siskiyou County and in his individual
capacity; and DOES 1-100,

Defendants.

Case No.: 2:21-cv-00999-KJM-DMC

**DEFENDANTS' OBJECTIONS TO THE
AFFIDAVIT OF EDWARD SZENDREY
DATED JULY 11, 2021 (CM/ECF NO. 9-
12)**

Complaint Filed: June 4, 2021

First Amended Complaint Filed: July 15, 2021

Date: August 6, 2021

Time: 10:00 AM

**[FEES EXEMPT PURSUANT TO
GOVERNMENT CODE SECTION 6103]**

Defendants hereby submit their objections to the three affidavits filed to date by Edward Szendrey in support of Plaintiffs' original motion for TRO and preliminary injunction and the current motion for preliminary injunction.

Material Objected To:	Grounds for Objection:	Ruling on Objection:
Affidavit of Edward Szendrey June 11, 2021	The entire supplemental affidavit of Edward Szendrey submitted June 11, 2021, is inadmissible because it is untimely as it is improperly filed in conjunction with Plaintiff's reply.	Sustained: _____ Overruled: _____
¶8 "On Thursday, May 27, 2021, following up on information Hmong residents of the Mount Shasta Vista subdivision were obtaining water from the City Park in Mt. Shasta city, Georgie Szendrey and I encountered an elderly Hmong couple at the park. We observed them, and other residents, filling the water jugs from a stream. The couple then carried and carted the water jugs to the parking lot some 200 ft from where they drew water. The couple stated they drove the some twenty plus miles from Shasta Vista to Mr. Shasta City to get water. (Exhibit – Photos of Hmong Couple getting water.)"	Irrelevant. Lacks foundation. Speculation. Prejudicial, confusing and misleading (FRE 403)	Sustained: _____ Overruled: _____
¶9 "On May 11, 2021, Karen Vang was traveling to her home in Shasta Vista with exactly 100 gallons of water. She was stopped by Sheriff's deputies who told her she would have to prove the water was not for marijuana or they would seize her truck. The officers followed her to her home and entered her property to confirm her assertion the water was for her family some sixty chickens, four goats, and pet dogs. I was shown photographs of the water containers and of the deputies' vehicles stopped outside her residence."	Irrelevant. Hearsay. (FRE 801) Prejudicial, confusing and misleading (FRE 403)	Sustained: _____ Overruled: _____
¶10	Irrelevant.	Sustained: _____

1	On June 7, 2021 I interviewed Long Herr and his wife Xia Herr. Long Herr stated a friend had been without water for three weeks and had reached out to him for help. He said he obtained 4,000 gallons of water from another unidentified friend who lives west of I-5. Mr. Herr drove up on Highway 97 from the town of Weed and turned west onto County Road A12. About a mile after turning onto A12 he was pulled over by the police. It was about 8:30 in the evening. Mr. Herr said he had heard about the ordinance restricting water trucks on County Road A12, but his friend was so desperate for water he felt he needed to help them or they might die. He stated the officer searched his truck and his wife's purse, opening zippered compartments, without permission. The officers seized their truck as 'evidence.' With no transportation the officer took them home in his vehicle."	Hearsay. (FRE 801) Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
13	¶11	Irrelevant.	Sustained: _____
14	"In the course of my investigation, I spoke with a resident of the Mount Shasta Vista Subdivision who stated he could not find anyone to sell him 100 gallons of water, as allowed for his personal use. Those he contacted required a permit to sell to him and were unwilling to pursue the permit process to do so. He has the understanding a separate permit would be required each day by the seller."	Hearsay. (FRE 801) Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
20	¶12	Hearsay. (FRE 801)	Sustained: _____
21	"I obtained a copy of the County of Siskiyou, Community Development Department, Application for Groundwater Extraction for Use Off-Site. (See attached Application for Groundwater Extraction) The application is a four page document which requires a property owner to designate the parcel from which water is extracted and the parcel to which water is to be delivered and the owner of that parcel. The person receiving the water must be a property owner."	Inadmissible opinion. (FRE 701)	Overruled: _____
27	¶13	Hearsay. (FRE 801)	Sustained: _____

1	“The vehicle delivering the water must also be identified in the application. The application does not provide for water to be delivered to more than one parcel by any other vehicle. The purpose of the use of the groundwater required to be specified.”	Inadmissible opinion. (FRE 701)	Overruled: _____
2	¶14	Hearsay. (FRE 801)	Sustained: _____
3	“Page 3 of the application requires the property owner extracting the groundwater and the property owner receiving the water to declare under the penalty of perjury the permit is sought incidental to a lawful activity and not to aid in the cultivation of cannabis.”	Inadmissible opinion. (FRE 701)	Overruled: _____
4	¶15	Hearsay. (FRE 801)	Sustained: _____
5	“Page 4 is a Supplemental Information Sheet. It appears to allow additional property owners to receive water after the initial permit has been issued.”	Inadmissible opinion. (FRE 701)	Overruled: _____
6	¶16	Hearsay. (FRE 801)	Sustained: _____
7	“An application for a Water Tender Permit can be obtained on line from the Siskiyou County Public Works Department. This permit requires the water truck driver designate the destination the water is to be delivered to and when delivery will be made. It appears a permit is required for each purchase and delivery of water. (See attached Water Tender Permit Application). (Exhibit: Application for Groundwater Extraction). (Exhibit: Water Tender Permit Application)”	Inadmissible opinion. (FRE 701)	Overruled: _____
8	¶17	Inadmissible opinion. (FRE 701)	Sustained: _____
9	“Sheriff Jeremiah LaRue’s policies have intentionally or unintentionally targeted the Hmong population of the Mount Shasta Vista Subdivision fostering racial dissention in the community.”	Lacks foundation. Speculation. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
10	¶18	Inadmissible opinion. (FRE 701)	Sustained: _____
11	“Prior to his appointment as Sherrieff, in his interview with the Siskiyou County Board of Supervisors on September 29,2020, Sheriff LaRue stated the best offense against cannabis is the ‘capping’ of the wells.”	Lacks foundation. Speculation. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
12	¶20	Irrelevant.	Sustained: _____

1	“In a three-part news story broadcast by television station KDRV in Medford, Oregon, May 25, 26, and 27, 2021 the issue of the Siskiyou County ordinances regarding water restrictions targeting cannabis growers is addressed.”	Hearsay. (FRE 801)	Overruled: _____
2	¶21	Hearsay. (FRE 801)	Sustained: _____
3	“In the series Sheriff La Rue is featured and made the following remarks on video: Sheriff LaRue was asked about his assertion every cannabis plant uses four to six gallons of water per day. The reporter Alicia Rubin stated ‘We were told that was just a figure the Sheriff had heard.’ Sheriff LaRue stated ‘From what I know, just talking to people that I know that work in the field that see day to day how much water, you know, how much the plants are drinking, so to speak, they’ve talked to other people in the community and that’s, that’s where I know the information comes from. It’s just people that have experience in that area.’ ‘We essentially have about 6,000 people that live in one particular area, Shasta Vista,’ said Siskiyou County Sheriff Jeremiah LaRue, ‘What’s primarily occurring there is illegal commercial cannabis.’”	In violation of Best Evidence Rule. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
4	¶22	Hearsay. (FRE 801)	Sustained: _____
5	“The news story noted some comments on the Sheriff’s office Facebook page have been targeted at Asian Americans in the community. One man writing: ‘We don’t need your kind in Siskiyou county. Go back to your country.’ ‘She looks like she is from Asia. We don’t need their kind in Siskiyou.’”	In violation of Best Evidence Rule. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
6	¶23	Hearsay. (FRE 801)	Sustained: _____
7	“Sheriff LaRue says that their message is being twisted, and that comments on the Facebook post are being spun in a direction that’s not true.”	In violation of Best Evidence Rule. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
8	¶24	Hearsay. (FRE 801)	Sustained: _____
9	“Report Alicia Rubin asked Sheriff	In violation of Best Evidence	Overruled: _____

1	LaRue about any plans to respond to reports of racism or racial profiling within the community. Rubin asked	Rule.	
2	'Is there any plan to take action against that to either a) make sure it doesn't continue or b) prevent it from happening in the first place?' 'Yeah,	Prejudicial, confusing and misleading (FRE 403)	
3	no, that's a good question,' said Sheriff LaRue, 'From the Sheriff's Department, we do not condone racism. Racism is horrible.'"		
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6	¶25	Hearsay. (FRE 801)	Sustained: _____
7	"The KDRV news report noted Siskiyou County Board of Supervisors put in place ordinances to crack down on water-sharing agreements that were happening and to prevent illegal grow sites from accessing water from neighboring wells. Sheriff LaRue responded: 'The problem is that groundwater is not designed to be used for illegal purposes, It affects people that are in the surrounding community. I think it was last year over 30 wells went dry — not just because of illegal commercial cannabis, but if you consider all of the things, whether it's just the drought, and add into the illegal activity, it all plays a part.'"	In violation of Best Evidence Rule. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
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16	¶26	Hearsay. (FRE 801)	Sustained: _____
17	"The KDRV series addressed the issue of a Facebook post by Sheriff LaRue calling on businesses to stop providing supplies and services to illegal grow sites, stating that 'delivering supplies and providing services to illegal commercial cannabis sites in Siskiyou county is prohibited.' (Exhibit – Siskiyou County Sheriff Facebook May 10, 2021)"	In violation of Best Evidence Rule. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
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22	¶27	Hearsay. (FRE 801)	Sustained: _____
23	"The KDRV article continues: 'Some businesses in Siskiyou County, specifically ones surrounding Big Springs near the Shasta Vista subdivision, tell NewsWatch 12 that the Facebook post has fanned the flames of racism, saying they are seeing community members racially profile Asian Americans in the community because the Shasta Vista	In violation of Best Evidence Rule. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
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1	subdivision is known to have a large Asian American population.’ ‘It’s very specific. It’s not delivering pizza and it’s not turning away people at the door. If they’re Asian . . . that’s just crazy talk,’ said Sheriff LaRue. ‘That sounds racist to me that someone would even suggest that.’”		
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5	¶28	Hearsay. (FRE 801)	Sustained: _____
6	“In the KDRV series Michael Parker, an employee of a local hardware store is quoted: ‘I feel we . . . we feel pressure, but I just don’t want to judge people because they come in and	In violation of Best Evidence Rule.	Overruled: _____
7	They’re of Asian descent,’ ‘They’re scared to come in. If they go leave the parking lot, they get pulled over. If they have anything that has to do with their business, even locals that don’t grow are being pulled over,’ ‘I think they’re profiling. We’ve seen some people get pulled over for no apparent reason that we’re Asian descent, you know, it seems like it is,’ ‘When you start shutting businesses down because the growers are here — they’re going to be here, they’re probably not going to leave, it’s just a big battle so I would like both groups to get together and talk about it and figure it out.’”	Prejudicial, confusing and misleading (FRE 403)	
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16	¶29	Hearsay. (FRE 801)	Sustained: _____
17	“Sheriff LaRue responded: ‘We’re not making traffic stops based upon age, race, ethnicity, sexual orientation. We don’t know any of that stuff. We just go off speed for example, and make traffic stops,’ said Sheriff LaRue, ‘In the Shasta Vista area we have a presence out there to monitor the water use, make sure there’s no illegal water trucks that are taking groundwater from some of these farmer farmers and taking them into the grows, if you will, so we have a presence out there and we’ve been making quite a bit of traffic stops but that’s not uncommon. Traffic stops are just a normal thing. They’re always based upon some type of violation. We don’t just pull people over.’ Sheriff LaRue also responded ‘It was never designed to discourage people from shopping in stores and it was	In violation of Best Evidence Rule.	Overruled: _____
18		Prejudicial, confusing and misleading (FRE 403)	
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1	never intended to prevent people from being able to enter a store,' 'I know there's a lot of money in it and I'm not trying to hurt businesses.' (Exhibit: KDRV - Siskiyou County water ordinances send ripple effect through community; legal action in process) (Exhibit: KDRV - Siskiyou County water ordinances spark claims of racial profiling and discrimination) (Exhibit: KDVR - Siskiyou County's crackdown on water trade causes trickle-down consequences for local businesses)"		
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8	¶31	Hearsay. (FRE 801)	Sustained: _____
9	"In an article published by the Sacramento Bee titled 'Asian pot growers face sheriff raids, bulldozers in Northern California. They blame racism' the issues of Siskiyou County dealing with cannabis and water are featured. The following excerpts are from that article: 'At the same time, deputies are threatening to cite local businesses supplying the cannabis farms with soil, lumber and other materials that amount to 'aiding and abetting in the illegal activity,' the sheriff's office said earlier this month on Facebook.' 'The sheriff is also recruiting private citizens to operate 'heavy equipment, such as dozers and excavators' to bulldoze greenhouses to combat what the sheriff on Facebook calls the 'illegal Commercial Cannabis Activity plaguing our county.'	In violation of Best Evidence Rule.	Overruled: _____
10	'Siskiyou County, instead, is going after marijuana farmers by aggressive regulation of the most important natural resource in the state: water.'	Prejudicial, confusing and misleading (FRE 403)	
11	'The next week, two dozen law enforcement officers raided properties tended by Chinese immigrant farmers on the hillsides on the other side of County Road A-12, the main highway through Big Springs. They eradicated 50,861 plants and bulldozers tore down 143 greenhouses, LaRue said.'		
12	'Now, with the latest crackdown, even the portable toilet companies are reluctant to come out to service the toilets placed at many parcels out of fear they'll be hit with 'aiding and abetting' charges. 'LaRue, the sheriff,		
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1	said that's not true. He said it's only		
2	considered a crime if a delivery or a		
3	service is clearly connected to a		
4	cannabis operation.' 'Earlier this		
5	month, two deputies pulled over		
6	Brandon Fawaz's truck hauling a load		
7	of fertilizer on the road leading to the		
8	Mount Shasta Vista subdivision. He		
9	said he wasn't delivering to the		
10	cannabis operations, and he wasn't		
11	cited.' 'He said business owners like		
12	him should not have to 'live in fear'		
13	that they'll be arrested or cited if they		
14	end up driving down the wrong road.'		
15	'Teams of deputies and California		
16	Highway Patrol officers now buzz up		
17	and down A-12 and other heavily		
18	trafficked cannabis roads looking for		
19	violators. On A-12, deputies have		
20	stopped at least 75 people since the		
21	supervisors passed the ordinance on		
22	May 4.' Siskiyou County District		
23	Attorney Kirk Andrus: 'We're not		
24	pretending that this is something that's		
25	trying to regulate anything except for		
26	water being used for cannabis,' he		
27	said. 'It's a way to enforce		
28	California's and Siskiyou's cannabis		
	laws. That's what it's for. It is not		
	designed to protect the aquifer, or the		
	groundwater.' *(Exhibit - Sacramento		
	Bee 5/25/21)		
	¶32	Hearsay. (FRE 801)	Sustained: _____
	"The Siskiyou County Sheriff has	Lacks foundation.	Overruled: _____
	been conducting a series of	Speculation.	
	warrantless raids on cannabis grows in	Irrelevant.	
	the Mount Shasta Vista area. The	Prejudicial, confusing and	
	Sheriff has recruited civilians with	misleading (FRE 403)	
	heavy equipment to bulldoze and		
	demolish green houses and other		
	personal property. Witnesses allege		
	many of the civilians carry firearms		
	during the raids."		
	¶33	Irrelevant.	Sustained: _____
	"A post on the Siskiyou County	Prejudicial, confusing and	Overruled: _____
	Sheriff's Facebook page dated May	misleading (FRE 403)	
	21, 2021 stated that during a two-day	In violation of Best Evidence	
	operation, 143 greenhouses containing	Rule.	
	50,861 cannabis plants connected to	Hearsay. (FRE 801)	
	illegal Commercial Cannabis Activity		
	were demolished. 'If you are		
	interested in assisting in our future		
	operations, contact the Sheriff's		

1	Office. We are looking for additional heavy equipment, such as dozers and excavators, and trained operators to volunteer to assist in ongoing efforts to address the illegal Commercial Cannabis Activity plaguing our county.’ There were 795 Comments and 359 shares. There were a mixture of comments pro-cannabis and anti-cannabis; some in support of the Sheriff some opposed; some with racial overtones. (Exhibit: Siskiyou County Sheriff Facebook)”		
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7	¶35	Hearsay. (FRE 801)	Sustained: _____
8	“I learned that on May 26, 2021 armed civilians, assisting the Sheriff’s Department, were allowed to enter private lands and bulldoze property destroying personal property. Allegations were made of the civilians taking generators and other personal items for themselves. A male who asked not to disclose his identity, provided me with photographs of the civilians involved at a staging area after the raid. (Exhibit - Civilian Staging Area)”	Lacks foundation. Irrelevant. Prejudicial, confusing and misleading (FRE 403)	Overruled: _____
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15	¶36	Irrelevant.	Sustained: _____
16	“In a Siskiyou County Sheriff’s Department Facebook page dated June 7, 2021 California Highway Patrol officers encountered a driver of a pickup truck carrying 750 gallons of water in three containers. The officers allowed the driver to empty some of the water to lighten the weight of the truck. Later the same officers responded to an accident where the same driver and truck had overturned due to being overweight. The post had 55 comments and 22 shares. (Exhibit – Siskiyou County Sheriff Facebook 6/7/21)”	Prejudicial, confusing and misleading (FRE 403) Hearsay. (FRE 801)	Overruled: _____
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